

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL HOVERMALE,	:	CIVIL ACTION NO. 3:17-CV-392
for J.T.H., a minor,	:	
	:	(Chief Judge Conner)
Plaintiff	:	
	:	
v.	:	
	:	
NANCY A. BERRYHILL,¹	:	
	:	
Defendant	:	

ORDER

AND NOW, this 6th day of November, 2018, upon consideration of the report (Doc. 13) of Chief Magistrate Judge Susan E. Schwab, recommending the court vacate the decision of the administrative law judge denying the application of plaintiff Michael Hovermale (“Hovermale”), on behalf of minor child, J.T.H., for supplemental security income, and remand this matter for further proceedings, and it appearing that neither Hovermale nor the Commissioner of Social Security (“Commissioner”) object to the report, see FED. R. CIV. P. 72(b)(2), and that the Commissioner expressly waived the opportunity to do so, (see Doc. 14), and the court noting that failure to timely object to a magistrate judge’s conclusions “may

¹ Due to the Federal Vacancies Reform Act, 5 U.S.C. § 3345 *et seq.*, former acting Commissioner of Social Security Nancy A. Berryhill is currently presiding as the Deputy Commissioner for Operations of the Social Security Administration. For consistency purposes, however, we continue to refer to Ms. Berryhill as “the Commissioner.”

result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should “afford some level of review to dispositive legal issues raised by the report,” Henderson, 812 F.2d at 878; see also Taylor v. Comm’r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int’l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following review of the record, the court being in agreement with Judge Schwab’s recommendation, and concluding that there is no clear error on the face of the record, it is hereby

ORDERED that:

1. The report (Doc. 13) of Chief Magistrate Judge Schwab is ADOPTED.
2. The Clerk of Court shall enter judgment in favor of Hovermale, on behalf of minor child, J.T.H., and against the Commissioner as set forth in the following paragraph.
3. The Commissioner’s decision is VACATED and this matter is REMANDED to the Commissioner with instructions to conduct a new administrative hearing, develop the record fully, and evaluate the evidence appropriately in accordance with this order and the report (Doc. 13) of Chief Magistrate Judge Schwab.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania